
The PJM Power Providers (P3)

Before the Senate Finance Committee

Testimony of the PJM Power Providers Group

Senate Bill 334 – Public Utilities – Standard Offer Service – Renewable Energy

February 1, 2022

The PJM Power Providers Group (P3) respectfully submits these comments on Senate Bill 334. P3 is a non-profit organization made up of power providers whose mission is to promote properly designed and well-functioning competitive wholesale electricity markets in the 13-state region and the District of Columbia served by PJM Interconnection.¹ Combined, P3 members own more than 65,000 megawatts of generation assets in PJM and produce enough power to supply over 55 million homes. P3 members own generation facilities in Maryland and serve Maryland consumers as competitive retailer providers.

As a general proposition, mandated long term contracts for electricity are a costly proposition for consumers as they are forced into contracts that inevitably are higher than market prices. Policymakers are wise to avoid them as history has proven that these efforts rarely live up to their promise and nearly always bind consumers to bad deals that extend for decades.

Senate Bill 334 would expand this flawed policy by mandating that at least 25 % of the utility renewable energy credit requirements be acquired via a long-term contract. Under the terms of the bill, the Public Service Commission would have an opportunity to reject contracts based on cost effectiveness, however, the Commission in theory would still be obligated to meet the 25% threshold

¹ The views expressed in these comments represent the views of P3 the organization and do not necessarily reflect the views of individual P3 members with respect to any issue. For more information on P3: www.p3powergroup.com.

which would significantly impinge on the Commission's ability to evaluate cost effectiveness.

Moreover, sophisticated customers will quickly realize that lower cost options are available to them (that meet or exceed the renewable energy mandates) and migrate to competitive suppliers leaving the utility with an increasingly smaller pool of consumers that are available to pay the above market costs associated with the long term contracts. The gap between what shopping and non-shopping customers are paying for essentially the same product will grow and disproportionately impact those consumers who do not seek out an alternative supplier.

In addition, Senate Bill 334 puts the state's utilities back in the business of buying and selling wholesale market power in direct contrast to Electric Customer Choice and Competition Act of 1999 which required the state's utilities to transfer generations assets out of the utility. As such, Senate Bill 334 represents a significant change in Maryland's energy policy and has consequences that should be thoughtfully considered.

Finally, the legislation, if it became law, would be vulnerable to a constitutional challenge based on the *Hughes* case. The bill effectively allows the wholesale market price to be set by the state-mandated long-term contract and then requires the utility to buy the energy and capacity from the generator, sell that energy and capacity to the wholesale market and then net the difference as either a charge or credit to consumers. This approach is akin to the contract difference approach that the United States Supreme Court deemed unconstitutional in the *Hughes v Talen* case. Any developer entering a long-term contract pursuant to the provisions of Senate Bill 334 would do so knowing that, at any point, the contract could be invalidated by a court which will either drive the costs of the project up or prevent them from being constructed at all.

Senate Bill 334 could have significant negative repercussions for Maryland's consumers and would likely fail to meet the expectations of those supporting the bill. P3 urges the Committee's unfavorable consideration.